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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Damien Jermaine Gibson,  
Plaintiff

v.

State of Nevada, et al.,  
Defendants

Case No.: 2:18-cv-01417-JAD-NJK

**Order Dismissing Action**

Plaintiff Damien Jermaine Gibson brings this civil-rights case under § 1983 for events he alleges occurred during his incarceration at High Desert State Prison.<sup>1</sup> On August 2, 2018, the magistrate judge denied his application to proceed *in forma pauperis* without prejudice because the application was incomplete and gave him 30 days to file a fully completed application or pay the \$400 filing fee.<sup>2</sup> The court expressly warned him that his failure to file the completed application or pay the filing fee by that deadline would result in the dismissal of this case.<sup>3</sup> The deadline has passed, and Gibson has done neither.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.<sup>4</sup> A court may dismiss an action with prejudice based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.<sup>5</sup> In determining whether to

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<sup>1</sup> ECF No. 1-1 (complaint).

<sup>2</sup> ECF No. 3 (order).

<sup>3</sup> *Id.*

<sup>4</sup> *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

<sup>5</sup> *See Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to

1 dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with  
2 local rules, the court must consider several factors: (1) the public's interest in expeditious  
3 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the  
4 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the  
5 availability of less drastic alternatives.<sup>6</sup>

6 I find that the first two factors—the public's interest in expeditiously resolving the  
7 litigation and the court's interest in managing the docket—weigh in favor of dismissing this case.  
8 The risk-of-prejudice factor also weighs in favor of dismissal because a presumption of injury  
9 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or  
10 prosecuting an action.<sup>7</sup> The fourth factor is greatly outweighed by the factors in favor of  
11 dismissal, and a court's warning to a party that his failure to obey the court's order will result in  
12 dismissal satisfies the consideration-of-alternatives requirement.<sup>8</sup> Gibson was warned that his  
13 case would be dismissed without prejudice if he failed to update his address within 30 days.<sup>9</sup> So,  
14 Gibson had adequate warning that his failure to update his address would result in this case's  
15 dismissal.

16 Accordingly, IT IS HEREBY ORDERED that **this action is DISMISSED** without  
17 prejudice based on Gibson's failure to file an updated address in compliance with this court's  
18 August 2, 2018, order; and

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20 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–  
21 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to  
22 keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.  
23 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,  
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

24 <sup>6</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;  
25 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.


26 <sup>7</sup> See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

27 <sup>8</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

28 <sup>9</sup> ECF No. 3 (order).

1 The Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE THIS  
2 CASE.

3 Dated: September 10, 2018

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6 U.S. District Judge Jennifer A. Dorsey  
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